



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
LOREN AND LILLY ANN ROTHSTEIN)

For Appellants: Arnold E. Prince
Attorney at Law

For Respondent: Bruce W. Walker
Chief Counsel

John A. Stilwell, Jr.
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Loren and Lilly Ann **Rothstein** against proposed assessments of additional personal income tax in the amounts of \$2,779.70 and \$1,272.80 for the years 1969 and 1970, respectively.

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The sole issue presented is the propriety of respondent's proposed assessments which are based on a final federal determination.

In 1969 and 1970, appellants invested in certain herd management programs offered by Prudential Cattle Company and certain affiliated entities. Prudential's returns for 1969 and 1970 were audited by the Internal Revenue Service, resulting in adjustments that changed the years in which Prudential was allowed to deduct certain expenditures. As a result of their investment interest in Prudential, appellant's federal income for 1969 and 1970 *was* adjusted accordingly. Appellants joined with other similarly situated investors in a class protest against the federal determination. As a result of that protest a negotiated settlement was reached which reduced the original federal adjustments.

After being informed of the final federal determination respondent made **corresponding** adjustments and issued the assessments in **issue.**^{1/}

It is well established that a deficiency assessment issued by respondent on the basis of a federal determination is presumed to be correct, and the taxpayer must show wherein it **is** erroneous. (Rev. & Tax. Code, § 18451; Appeal of William and Alma Wolfson, Cal. St. Bd. of Equal., May 4, 1976; Appeal of Samuel and Ruth Reisman, Cal. St. Bd. of Equal., March 22, 1971.) In support of their position appellants have **advanced several** reasons why the final federal settlement was not advantageous to them. However, they have failed to advance a single reason which would tend to show that the federal determination was incorrect. Accordingly, we must conclude that appellants have failed to carry their burden of establishing that the federal determination was erroneous.

^{1/} Action by respondent on a claim for refund in the amount of ~~\$4188~~ for 1971 is being held in abeyance pending a determination of this appeal.

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Appellants also contend that respondent improperly computed the tax due by failing to apply the maximum tax on earned income. While there is a provision for a maximum tax on earned income at the federal level (Int. Rev. Code of 1954, § 1348) there is no equivalent provision under the California Personal Income Tax Law.

Under the circumstances we conclude that respondent's action in this matter was proper and must be sustained.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Loren and Lilly Ann Rothstein against proposed assessments of additional personal income tax in the amounts of **\$2,779.70** and **\$1,272.80** for the **years 1969 and 1970**, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this **6th** day of **January, 1977**, by the State Board of Equalization.

Stallman, Bruce, Chairman
Paul [unclear], Member
George [unclear], Member
Iris [unclear], Member
_____, Member

ATTEST: *W W [unclear]*, Executive Secretary